IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

IAN G. JONES	)	
Plaintiff,	)	
	)	**Case No:**
vs.	)	
	)	**Jury Trial Demanded**
UNITED STATES OF AMERICA,	)	
Defendant.	)	

COMPLAINT

Plaintiff Ian G. Jones, by counsel, and for his Complaint against the Defendant, United States of America, states as follows:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff Ian G. Jones ("Plaintiff") is, and at all times relevant was, a citizen of Missouri residing in St. Louis, Missouri in the Eastern District of Missouri.

2. Defendant United States of America is sued under the Federal Tort Claims Act ("FTCA"), 28 U.S.C. § 2671, *et seq.,* for the death of Garnett Charles Jones III resulting from the negligent failure to properly administer a stress test at the Department of Veterans Affairs Medical Center, 915 Grand Boulevard, St. Louis, Missouri 63105 in the Eastern District of Missouri ("VA Medical Center").

3. At all times relevant hereto, the VA Medical Center was operated by Defendant United States of America ("United States").

4. At all times relevant herein, the employees of the VA Medical Center were acting within the scope of their employment under circumstances where the United States, if a private

person, would be liable to Plaintiff in accordance with the laws of the State of Missouri. See 28 U.S.C. § 1346(b).

5. Plaintiff is the surviving son of the decedent Garnett Charles Jones III ("Plaintiff's decedent") and maintains this action under Section 537.080 of the Revised Statutes of Missouri on his own behalf and on behalf of all other persons entitled to join in this claim pursuant to Section 537.080(2), as a result of the death of his father Garnett Charles Jones III on December 18, 2015.

6. Jurisdiction is proper under 28 U.S.C. § 1346(b)(1).

7. Venue is proper in this Court pursuant to 28 U.S.C. § 1402(b) in that Plaintiff resides in and the acts and omissions forming the basis of these claims occurred in the Eastern District of Missouri, Eastern Division.

ADMINISTRATIVE REMEDIES

8. On October 31, 2016 per the requirements of the FTCA, Plaintiff timely submitted a Standard Form 95 "Claim for Damage, Injury, or Death" with the United States Department of Veterans Affairs, St. Louis Regional Office and Office of the General Counsel.

9. On November 8, 2016 the U.S. Department of Veterans Affairs sent a letter acknowledging receipt of Plaintiff's claim, requesting substantiating evidence, and stating in part that, "VA has six months to consider a claim before you have the option to file suit on behalf of your client in U.S. District Court (45 C.F.R.35.2(b) and 28 U.S.C. 2675." *Exhibit 1,* Dep't of Veterans Affairs Letter, November 8, 2016.

10. On November 23, 2016 Plaintiff provided the U.S. Department of Veterans Affairs with the requested substantiating evidence. *Exhibit 2*, Letter to Department of Veterans Affairs, November 23, 2016.

11. No response was received from the Department of Veterans Affairs.

12. Plaintiff has exhausted all administrative remedies and subsequently files this action.

FACTS

13. On or about December 17, 2015 Plaintiff's decedent presented at the VA Medical Center with chest pain. He had a past medical history, known to Defendant, that was significant for smoking and COPD.

14. A dose of Sestamibi was administered to Plaintiff's decedent at rest to conduct a stress test with Myocardial Imaging. Another dose of Sestamibi was administered at peak stress.

15. During the test, Plaintiff's decedent became unstable and was evaluated by a cardiology fellow employed by Defendant. The stress images were not performed.

16. After returning to the general medical floor from the stress test, Plaintiff's decedent appeared to be in a severe respiratory distress and the rapid response team was called. He was hypoxemic and hypercarbic and endotracheal intubation was performed. Further attempts to revive were ceased and Plaintiff's decedent died at 1:10 pm on December 18, 2015.

COUNT I
(Wrongful Death)

17. Plaintiff alleges and incorporates by reference paragraphs 1 through 16 as if fully set forth herein.

18. At all times material hereto, Defendant was under a duty, individually and /or by and through its agents, servants and employees, to render administrative and medical services consistent with the medical requirements of the patients therein, and to use and exercise that degree of care, skill, and proficiency that is commonly exercised by the ordinarily skillful, careful and prudent health care providers engaged in similar practice under the same or similar circumstances.

19. The death of Plaintiff's decedent and Plaintiff's damages discussed below, were directly and proximately caused or contributed to have been caused by the carelessness and negligence of Defendant in the following respects:

a. Failing to monitor Plaintiff's decedent during stress test for pulmonary status;

b. Failing to connect oxygen and stabilize Plaintiff's decedent when he was transferred from the stress lab to the inpatient bed at the VA Medical Center;

c. Returning Plaintiff's decedent to an inpatient bed that while in respiratory distress rather than transferring to ICU. Defendant's employee, Tracee D. Dorsey R.N., reported that she ordered respiratory therapy following the stress test that was not performed as needed and that Defendant's staff failed to transfer Plaintiff's decedent to the ICU;

d. Failing to have policies and procedures in place regarding the ordering of stress tests for patients who continually show signs and symptoms of chest pain and COPD;

e. Failing to follow policies and procedures in place regarding the ordering of stress tests for patients who continually show signs and symptoms of chest pain and COPD;

f. Such further acts as discovery and evidence will show.

20. Defendant knew or had information from which Defendant, in the exercise of ordinary care, should have known that such conduct as described above created a high degree of probability of injury or death to Plaintiff's decedent.

21. Garnett Charles Jones III's death was a direct and proximate result of the aforesaid negligence of Defendant.

22. That Plaintiff's decedent left surviving his son at the time of his demise and by reason of the wrongful death of the Plaintiff's decedent, Plaintiff suffered pecuniary losses,

incurred funeral expenses, lost services, companionship, comfort, instruction, guidance, counsel and support of his father.

WHEREFORE, Plaintiff Ian G. Jones prays for judgment against Defendant for actual, compensatory and incidental damages as set forth in paragraphs 21 and 22 incorporated herein as though fully set for herein, together with all costs expended herein, and for such further relief as the Court deems just and appropriate.

COUNT II
(Lost Chance of Recovery)

23. Plaintiff alleges and incorporates by reference each and every allegation contained in paragraphs 1 through 22 as though fully set forth herein.

24. At all times material hereto, Defendant was under a duty to render administrative and medical services consistent with the medical requirements of the patients therein, and to use and exercise that degree of care, skill, and proficiency that is commonly exercised by the ordinarily skillful, careful and prudent health care providers engaged in similar practice under the same or similar circumstances.

25. On December 18, 2015 and continuing for a time thereafter, Plaintiff's decedent had a material chance of recovery from the pulmonary and cardiac issues that he presented.

26. Plaintiff's decedent's loss of chance of recovery, discussed below, was directly and proximately caused or contributed to have been caused by the carelessness and negligence of Defendant in the following respects:

a. Failing to monitor Plaintiff's decedent during stress test for pulmonary status;

b. Failing to connect oxygen and stabilize Plaintiff's decedent when he was transferred from the stress lab to the inpatient bed at the VA Medical Center;

c. Returning Plaintiff's decedent to an inpatient bed that while in respiratory distress rather than transferring to ICU. Defendant's employee, Tracee D. Dorsey R.N., reported that she ordered respiratory therapy following the stress test that was not performed as needed and that Defendant's staff failed to transfer Plaintiff's decedent to the ICU;

d. Failing to have policies and procedures in place regarding the ordering of stress tests for patients who continually show signs and symptoms of chest pain and COPD;

e. Failing to follow policies and procedures in place regarding the ordering of stress tests for patients who continually show signs and symptoms of chest pain and COPD;

f. Such further acts as discovery and evidence will show.

27. As a direct result of the conduct of Defendant as aforesaid, Plaintiff's decedent lost, in whole or in part, his chance of recovery and cure from the cardiac and pulmonary issues that he presented.

28. Defendant knew or had information from which Defendant, in the exercise of ordinary care, should have known that such conduct as described above created a high degree of probability of death to Plaintiff's decedent.

WHEREFORE, Plaintiff Ian G. Jones prays for judgment against Defendant for actual, compensatory and incidental damages as set forth in paragraphs 27 and 28, incorporated herein as though fully set for herein, together with all costs expended herein, and for such further relief as the Court deems just and appropriate.

COUNT III

(Loss of Consortium)

29. Plaintiff alleges and incorporates by reference each and every allegation contained in paragraphs 1 through 28 as though fully set forth herein.

30. At all times relevant to this cause of action, Plaintiff was the son of Garnett Charles Jones III.

31. As a direct and proximate result of the aforesaid negligent acts or omissions, Plaintiff lost the services, support, society and consortium of his father.

WHEREFORE, Plaintiff Ian G. Jones prays for judgment against Defendant for actual, compensatory and incidental damages as set forth in paragraph 30, incorporated herein as though fully set for herein, together with all costs expended herein, and for such further relief as the Court deems just and appropriate.

CURTIS, HEINZ, GARRETT & O'KEEFE, P.C.

By: ______________________________

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